

REMARKS

The applicants have carefully considered the Office action dated August 26, 2005 and the references it cites. By way of this Response, claims 1, 15, 16, 20, 23, 31, 33, 35, 37, 44, 47 and 48 have been amended, claims 32, 49 and 50 have been cancelled without prejudice to their further prosecution, and new claim 51 has been added. In view of the following, it is respectfully submitted that all pending claims are in condition for allowance and favorable reconsideration is respectfully requested.

As an initial matter, the applicants note that the Office action indicated that claims 15-16, 23 and 47 would be allowable if rewritten in independent form. Following this suggestion, the applicants have rewritten claim 15 and 23 in independent form. (Since claims 15 and 23 include the same limitations before and after this amendment, they have not been narrowed and, thus, are not subject to prosecution history estoppel). Additionally, new claim 51, which includes the recitations of objected-to claim 47 rewritten in independent form (with the term “legs” broadened to “wheels”) has been added. (Since claim 51 is a broader version of claim 47, it has not been narrowed and should not be subject to prosecution history estoppel.) Accordingly, claims 15, 23 and new claim 51 and all claims depending therefrom are in condition for allowance and are not discussed further herein.

Turning to the 35 U.S.C. § 112, second paragraph, rejections, applicants respectfully traverse the rejections of claims 35, 36 and 39. For example, there is nothing unclear about the phrase “wherein the removable support is a walk-behind walker which does not include a seat” in claim 35. The fact that the term “walk” is an act or instance of going on foot” is

irrelevant to the definiteness of claim 35. The term “walk-behind walker” is a well known term to persons of ordinary skill in the art. As explained in applicants’ specification:

[0002] Walkers have been used for years to assist in teaching children to walk. As used herein, the term “walker” is intended to encompass wheeled structures that may be propelled by a child learning to walk. Thus, as used in this document, a walker can be (1) a traditional walker including a wheeled frame which suspends a child in a seat or sling with their feet touching the floor, and/or (2) ***a walk-behind product which includes a wheeled frame that may be used for support by a standing/walking child but generally does not include a seat/sling to suspend the child.*** Because traditional walkers suspended the child within a seat/sling, they can be used with a child that is unable to stand. ***Walk-behind products, on the other hand, do not suspend the child in a seat or sling and, thus, are generally not usable by children who cannot yet stand.***

(Specification, Paragraph [0002])(emphasis added). Thus, the specification and claims use the term “walk-behind walker” consistently with its use in the industry, and a person of ordinary skill in the art would have no trouble understanding the term “walk-behind walker” as referencing a walker without a seat that is usable as support by a standing/walking child. Accordingly, claim 35 fully meets the requirements of 35 U.S.C. § 112, second paragraph, and the rejection of claim 35 must be withdrawn.

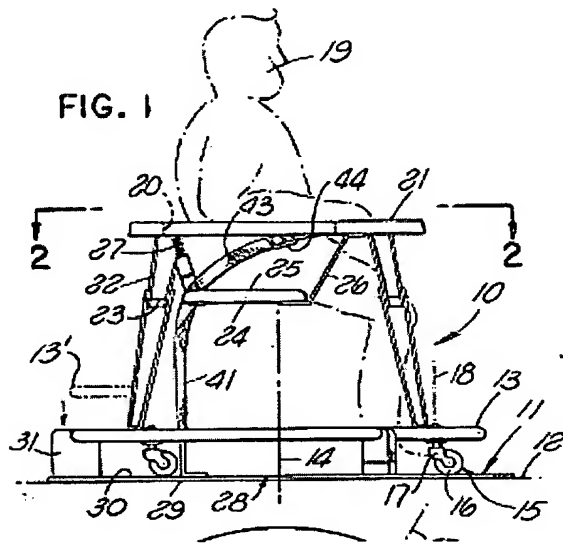
Similarly, the phrases “a wheeled walker not including a seat” in claim 36 is very clear to a person of ordinary skill in the art. The phrase “a walker alternative comprising a seat, a base and the wheeled walker” in claim 36 is also clear. The sentence, “whether to the wheeled walker belonging to a walker or not” in the rejection of claim 36 is not understood. Claim 36 clearly

recites “ a wheeled walker not including a seat,” and a walker alternative comprising, among other things, *the* wheeled walker. Thus, it is evident that the same wheeled walker is referenced twice in claim 36. These terms are clear to a person of ordinary skill in the art, particularly in view of the examples described in the specification, and the 35 U.S.C. § 112, second paragraph, rejection of claim 36 must, therefore, be withdrawn.

The rejection of claim 39 is also in error. Claim 39 recites “removing a tray of the child entertaining apparatus from a wheeled walker without removing *the* tray from a base supporting the wheeled walker.” Thus, it is very clear that the same tray is referred to in both tray recitations of claim 39. Accordingly, it is respectfully submitted that the 35 U.S.C. § 112, second paragraph, rejection of claim 39 must be withdrawn.

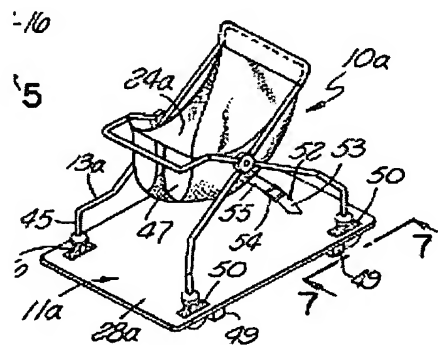
Turning to the art rejections, the Office action rejected claims 1-14, 17-22, 24-46, 48 and 49 as being unpatentable over one or more of Sanchez, U.S. Patent 4,480,846, Meeker et al., U.S. Patent 6,299,247, Sudo, U.S. Patent 3,796,430, and/or Perego, U.S. Patent 5,071,149. Applicants respectfully traverse these rejections.

Sanchez, the primary reference relied upon in the Office action, is directed to a base panel to retain a baby walker against movement. There are three disclosed examples in Sanchez, namely, the example of FIGS. 1-5, the example of FIGS. 5-6, and the example of FIGS. 8-11. The first example, shown below for the convenience of the Examiner, includes a traditional walker 10 having a ring 13 carrying a plurality of casters 15, a top 21 supported above the ring 13 by legs 22, and a seat 25 suspended from the top 21. (Col. 2, lines 35-67).



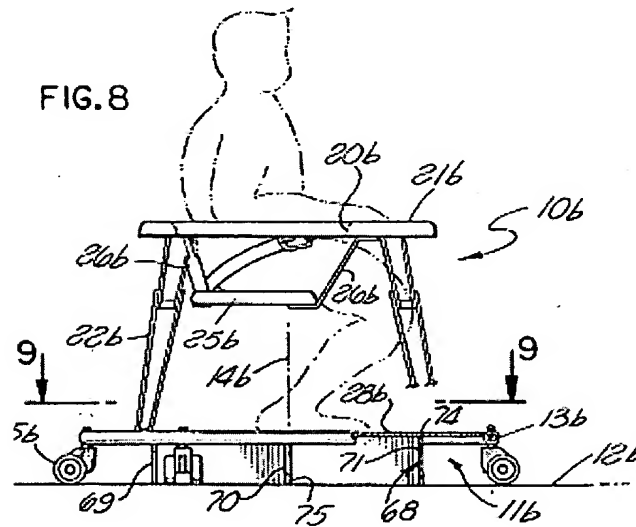
The first example also includes a device 11 to retain the traditional walker 10 “in a fixed position on a floor or ground surface 12.” (Col. 2, lines 35-39). The “device 11 for rendering the walker immobile includes a preferably circular horizontal panel 28 ... for engaging floor surface 12.” (Col. 3, lines 7-10). A number of upwardly extending posts 31, 131, 231 are carried by the panel 28 and detachably receive the ring 13 of the traditional walker 10 to “retain the walker against horizontal movement relative to the base device 11.” (Col. 3, lines 14-21).

The second Sanchez example also includes a traditional walker 10a including four legs 45 carrying wheels 46 and a seat 24a. (Col. 5, lines 31-38). The second Sanchez example is shown below for ease of reference.



The second Sanchez example includes a base device 11a “for retaining the walker against movement when desired.” (Col. 5, lines 38-39). The base device 11a of the second example includes a horizontal panel 28a with a plurality of legs or members 49 to engage the floor (Col. 5, lines 46-50). The panel 28a includes openings or slots 50 to receive the wheels of the walker to prevent movement of the wheels relative to the panel 28a. (Col. 5, lines 46-50).

The third Sanchez example also includes a traditional walker 10b “which is very similar to walker 10 of FIGS. 1 through 5.” (Col. 6, lines 37-39). The third Sanchez example is shown below for ease of reference.



Before continuing with this discussion, it is important to reiterate the definition of a traditional walker. As noted above, applicants' specification states:

[0002] Walkers have been used for years to assist in teaching children to walk. As used herein, the term "walker" is intended to encompass wheeled structures that may be propelled by a child learning to walk. Thus, as used in this document, a walker can be (1) **a traditional walker including a wheeled frame which suspends a child in a seat or sling with their feet touching the floor**, and/or (2) a walk-behind product which includes a wheeled frame that may be used for support by a standing/walking child but generally does not include a seat/sling to suspend the child. **Because traditional walkers suspended the child within a seat/sling, they can be used with a child that is unable to stand.** Walk-behind products, on the other hand, do not suspend the child in a seat or sling and, thus, are generally not usable by children who cannot yet stand.

(Specification, Paragraph [0002])(emphasis added). Thus, the specification clearly defines a traditional/conventional walker as a walker including a wheeled frame AND a seat. This is precisely the usage employed in the examples of Sanchez. Applicants' specification also makes it clear that a walk-behind walker includes a wheeled frame, **but no seat**. These terms are used in the art consistently with these express definitions from applicants' specification.

With these definitions in mind, it can be seen that, in each of the Sanchez examples, a **traditional walker** (i.e., a walker with a seat) is immobilized against horizontal movement. Sanchez does not teach or suggest immobilizing a walk-behind walker. It only describes immobilizing a

traditional walker. This is because the entire purpose of Sanchez is to secure a child against movement. In the words of Sanchez:

The general purpose of the present invention is to provide a walker which can easily and effectively be converted from a normal fully mobile condition to a stationary condition in which the mounting wheels can no longer roll against a floor surface but instead the device is very positively retained in any desired fixed position to prevent unwanted movement of the child and assure that he remain at the location in which he can do no harm to himself or items around him.

(Col. 1, lines 36-44)(emphasis added). Immobilizing a walk-behind walker would not make any sense in the context of Sanchez, because, by definition, the child would not be immobilized. On the contrary, because a walk-behind walker has no seat, the child is not restrained and can simply walk or crawl away from the immobilize walk-behind walker. Accordingly, a person of ordinary skill in the art would not think to use the immobilizing devices of Sanchez with a walk-behind walker, as such usage would not meet the purpose of Sanchez and, thus, would be impractical, basically useless and, thus, unsalable to parents in the marketplace.

Against this background, it becomes immediately clear that independent claim 1 is patentable over Sanchez. Claim 1 recites, a child entertaining apparatus comprising a base and a wheeled **walk-behind walker** to at least partially support a seat above the base, and that the walker is removable from the base and the seat. Sanchez does not teach or suggest a structure in which **a walk-behind walker** supports a seat above a base. Nor does Sanchez teach or suggest such a structure in which the walk-behind walker can be removed from the base and from the seat. Further, as explained

above, there is no suggestion, either in Sanchez or in any of the other art of record, for modifying Sanchez to employ a walk-behind walker to meet the recitations of claim 1. To reiterate, without reference to applicants' disclosure of employing a walk-behind walker (which by definition has no seat of its own) to support a seat above a base, there is quite simply no teaching in any of the art of record for modifying Sanchez for use with a walk-behind walker. Indeed, it does not appear that any of the references relied upon in the rejections even describe a walk-behind walker, let alone a rationale for modifying Sanchez to employ such a walk-behind walker. Accordingly, claim 1 and all claims depending therefrom are in condition for allowance.

Independent claim 20 is also allowable. Claim 20 recites a child entertaining apparatus comprising, among other things, a wheeled **walk-behind** walker to at least partially support the seat above the base, the wheeled walker being removable from the base and the seat. As discussed above, no combination of Sanchez and the art of record teaches or suggests such a walker. Accordingly, claim 20 and all claims depending therefrom are in condition for allowance.

Independent claim 33 should also be allowed. Claim 33 recites a child entertaining apparatus comprising, among other things, a tray pivotably coupled to a base, and a removable wheeled support, wherein the tray remains pivotably coupled to the base when the wheeled support is removed from the base. In contrast, although it can be argued that the trays 20 of the Sanchez examples are coupled to the base 28, 28b when the traditional walkers are immobilized, those trays are removed from the base when the walkers are removed from the base. Accordingly, Sanchez does not teach or suggest a tray

that remains pivotably coupled to the base when the wheeled support is removed from the base as recited in claim 33. Since none of the other art of record contains a suggestion for modifying Sanchez to meet the recitations of claim 33, claim 33 is in condition for allowance.

Independent claim 34 should also be allowed. Claim 34 recites a child entertaining apparatus comprising, among other things, a removable support ***which is a walk-behind walker which does not include a seat.*** As discussed in detail above, none of the art of record, taken alone or in combination, teaches or suggests such a child entertaining apparatus. Accordingly, claim 34 is in condition for allowance.

Independent claim 35 should also be allowed. Claim 35 recites an apparatus comprising, among other things, a hinged arm ***fixedly*** joining a tray to a base such that the tray is movable between a first height above the base and a second height above the base; and a walker positionable on the base to support the tray at the first height, wherein the hinged arm is not part of the walker and cannot support the tray at the first height without the assistance of the walker such that when the walker is removed from the base, the tray is located at the second height. As discussed above, the trays of the Sanchez examples are removed from the bases 28, 28b when the traditional walkers are removed from those bases. Thus, Sanchez clearly fails to meet the recitations of claim 35. Further, there is no rationale in any of the other art of record to modify Sanchez to meet the recitations of claim 35. Accordingly, claim 35 and all claims depending therefrom are in condition for allowance.

Independent claim 36 should also be allowed. Claim 36 recites, among other things, a wheeled walker which does not include a seat, and a walker

alternative comprising a seat, a base and that same wheeled walker. As discussed above, there is no teaching or suggestion for modifying Sanchez for use with a walker which does not include a seat. Accordingly, claim 36 is patentable over Sanchez, whether considered alone or in combination with any other reference of record.

Independent claim 37 should also be allowed. Claim 37 recites placing a wheeled walker on a base to substantially prevent movement of the walker relative to the base, the wheeled walker not including a seat. As discussed above, there is no teaching or suggestion for modifying Sanchez for immobilizing such a walker. Accordingly, whether considered alone or in combination with any other art of record, Sanchez does not meet the recitations of claim 37. Therefore, claim 37 and all claims depending therefrom must be allowed.

Independent claim 39 is also allowable. Claim 39 recites removing a tray of the child entertaining apparatus from a wheeled walker ***without removing the tray from a base supporting the wheeled walker***. Sanchez does not even teach or suggest removing a tray from a walker. As such, it cannot teach or suggest removing a tray from a walker *without removing the tray from a base supporting the walker*. Accordingly, claim 39 and all claims depending therefrom are allowable.

Independent claim 42 is also allowable. Claim 42 recites, among other things, removing the wheeled walker from the seat ***and*** the base. Sanchez ***never removes*** its walker from the seat. As discussed above, there is no suggestion for making such a modification to Sanchez. Accordingly, claim 42 is allowable.

Independent claim 43 is also allowable. Claim 43 recites, among other things, an apparatus comprising: a lock out mechanism to selectively substantially prevent rocking of a base, the lock out mechanism ***including a leg carrying a state message*** and ***the base defining a window positioned to display the state message*** when the lock out mechanism is in a predetermined state associated with the state message. The Office action nowhere identifies anything even remotely corresponding to such a lock-out mechanism. Although the Office action attempts to find such a structure in Meeker, it can be seen by viewing FIGS. 1 and 2 of Meeker that, while Meeker has a lock out mechanism 86, there is no state message carried on the lock out mechanism and the base of Meeker does not define a window positioned to display such a message. Accordingly, claim 43 is allowable.

Independent claim 44 is also allowable. Claim 44 recites, among other things, a base having a perimeter; and a wheeled ***walk-behind*** walker which is removable from the seat and the base. As discussed in detail above, no such structure is taught or suggested by any of the art of record. Accordingly, claim 44 is in condition for allowance.

Independent claim 45 is also allowable. Claim 45 recites, among other things, a tray ***fixedly secured*** to the base ***and removably secured*** to the wheeled walker. The trays 20 of Sanchez are removable from their bases 28, 28b and are fixed to their respective walkers. This is the ***opposite*** of the structure recited in claim 45. There is no teaching or suggestion for modifying Sanchez to meet the recitations of claim 45. Accordingly, claim 45 and all claims depending therefrom are in condition for allowance.

Independent claim 48 is also allowable. Claim 48 recites, among other things, a base; and a wheeled walk-behind walker removably mounted inside the base. As discussed above, neither Sanchez nor any other art of record, taken alone or in combination, includes such structure. Accordingly, claim 48 is in condition for allowance.

In view of the foregoing, it is respectfully submitted that all pending claims are in condition for allowance.

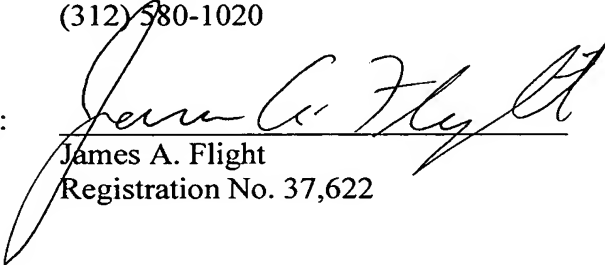
Before closing, it is noted that the amendment to claim 47 is broadening and, thus, does not create prosecution history estoppel.

If the Examiner is of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is invited to contact the undersigned at the number identified below.

Respectfully submitted,

HANLEY, FLIGHT & ZIMMERMAN, LLC.
Suite 4220
20 North Wacker Drive
Chicago, Illinois 60606
(312) 580-1020

By:


James A. Flight
Registration No. 37,622

January 26, 2006